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Promotion and protection of all human rights, civil, political, economic, social and cultural rights, including the right to development

Written statement* submitted by Asylum Access, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[26 May 2014]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

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Mainstreaming Refugee Work Rights into the Implementation of the Guiding Principles on Business and Human Rights

Asylum Access welcomes the action undertaken by the United Nations Working Group on Business and Human Rights in mainstreaming human rights into the operations of both national and transnational corporations. We urge the Working Group to ensure that these principles are specifically applied in the refugee context and that labor violations for refugees are prevented, investigated, punished and redressed through effective policies, legislation, regulations and adjudication. We call upon the Working Group to specifically include refugee work rights in its implementation of the *Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework*, and in doing so, we urge it to consider the following recommendations.

Overview

There are an estimated 16 million refugees in the world today, who will remain in exile for an average of 20 years. International law explicitly obliges host governments to afford these individuals a right to access the national labor market and labor protections while in exile. Despite this clear articulation, refugees' work rights are rarely observed by nations and corporations in practice. In reality, many, if not most, of the world's forcibly displaced are barred from accessing formal employment and are subject to abuse by employers in their first country of refuge. This means that most refugees will spend a generation unable to access the right that would permit them to rebuild their life and restore dignity. Even in situations where refugees are afforded a legal right to work, discrimination, exploitation, and abuse in the workforce are routinely reported.

Despite their disenfranchised and vulnerable state, refugees have been largely left out of the Business and Human Rights discussions. Traditionally the forcibly displaced have been viewed from the humanitarian, rather than the human rights lens. The *Guiding Principles on Extreme Poverty and Human Rights* specifically mention refugees and asylum seekers as among those "particularly vulnerable to extreme poverty."[1] These Principles note that those in poverty are often seen as "passive recipients of government aid or charity, when, in fact, they are rights holders with entitlements to whom policy makers and other public officials must be held accountable."[2] This correction in approach is essential for refugees to achieve dignity, self-reliance, and recognition as people with rights, not just needs, by private sector and government actors.

By including refugees in the Business and Human Rights discussion and applying the United Nations 'Protect, Respect and Remedy' framework to refugee work rights, host countries may enjoy the socio-economic benefits of a dignified, self-reliant refugee population, and refugees will be protected from abuse and given access to their basic human rights. When refugees are given an opportunity to earn an income and achieve self-sufficiency, they invest in their families and communities, serving the development objectives of countries. Leaving this population out of the conversation ignores the valuable skills refugees often possess—skills that could otherwise contribute to strong business operations. The exclusion of refugees from the Business and Human Rights conversation is thus a barrier to the effective implementation of the Guiding Principles, and leaves holes in the protection of human rights in the context of business activities.

The Working Group's inclusion of refugees will also help to address many parallel rights issues, including poverty reduction and anti-trafficking. Because refugees are often subjected to human trafficking, their inclusion will help serve the UN's goal of eliminating human trafficking and forced labor from the global business landscape.

[1] A/HRC/21/39, para. 8.
[2] Id, para 45.

Recommendations

Asylum Access urges the Working Group to take special care during its country visits to prevent and cite human rights violations in business operations that affect refugees, given that extreme marginalization and vulnerability make this group susceptible to human rights abuse in business. We urge that official country mission reports submitted to the Human Rights Council include human rights and business issues as related to refugees.

We urge the Working Group to visit countries that host large refugee populations in Africa, Asia, Latin America and the Middle East, where the majority of refugees reside and where labor protections are most notably insufficient. Specifically, we urge the working group to visit Ecuador, Thailand, Tanzania, and Malaysia to investigate the application of labor protections for refugees.

Because the Working Group aims to carry out its mandate in a manner that includes consulting and engaging directly with individuals, communities, and national human rights institutions to inform its work, we urge the Working Group to meet with appropriate Asylum Access local offices during country visits to ensure that its findings and recommendations respond to practical and operational realities on the ground.

We urge the Working Group to take into consideration existing standards, initiatives, knowledge, and tools developed by Asylum Access's headquarters and local offices on the subject of refugee work rights. Asylum Access and the Refugee Work Rights Coalition informs universal refugee work rights in its handbook "Global Refugee Work Rights: Taking the Movement from Theory to Practice." Local Asylum Access offices serve the Working Group's desire to consider the input of regional human rights mechanisms.

We urge the WG to consult with Asylum Access's regional consultants who share a similar vision for refugee rights, including the Refugee Work Rights Coalition (RWRC), Asia Pacific Refugee Rights Network (APRRN), and Southern Refugee Legal Aid Network (SRLAN).

Conclusion

The Guiding Principles were born out of, *inter alia*, (1) recurring reports of migrant worker exploitation and the many cases that never attract international attention, and (2) the growing recognition during the creation of the post-2015 development agenda of the human rights aspects of sustainable development and the role business enterprises can play in addressing poverty and inequality. Exploited refugee workers have failed to attract international attention, lending the necessity for attention by the Working Group. Refugee populations must be given the right to contribute to their host country's development goals, and business enterprises must address poverty, inequality social and economical exclusion experienced by refugees.